

of] said foodstuff holding device [produce] produces corresponding changes in said [sound] at least one of said group consisting of sound, light, movement, vibration, electrical stimulation or odor generation.

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9. (Once amended) The holding device of claim 2, wherein: said [sound] output means includes the production of a shocking sensation effective to alter a taste of said foodstuff.

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#### REMARKS

In response to the Office Action of May 15, 2000, Applicant requests re-examination and reconsideration of this application for patent pursuant to 35 U.S.C. 132.

Pursuant to a telephone restriction requirement, Species I was provisionally elected, with traverse. Species I includes claims 1-2 and 9. Claim 1 is held to be generic.

Species I, including claims 1-2 and 9 is elected with traverse. The requirement to elect a single species is traversed because the different dependent claims in this application are disclosed as related to each other. This disclosure makes it clear that the different sensory results claimed in the dependent claims are the results of manipulation of an electrical circuit, present in all the claims, to produce different outputs as the physical

characteristics of the foodstuff change.

The designation of claim 1 as generic acknowledges that all the claims are related thereto. MPEP, sec 808.01(a), third paragraph, requires some explanation of why the disclosed relationship between the species does not prevent restriction. For these reasons, the requirement for election should be withdrawn.

#### Objections to the Disclosure

With regard to the Examiner's requirement to place Table 1 in the Detailed Description portion of the specification, her attention is directed to 37 CFR 1.84 (d) which states, in part, that, "Chemical or mathematical formulae, tables, and waveforms may be submitted as drawings \* \* \*," (emphasis added). If the Examiner insists on such an amendment, Table 1 can be canceled from the drawings and resubmitted as an amendment to the specification to be inserted after line 21 of page 15.

#### Rejections under 35 USC 112

Claim 9 stands rejected under 35 USC 112, first paragraph, because there is no disclosure of a sound producing an electrical shock. The Examiner's interpretation of the claim for examination purposes is correct and appreciated.

Claim 9 has been amended to recite that there are additional means for creating an electrical shock. Indeed, there are several embodiments disclosed wherein the user's tongue forms part of an electrical circuit.

Rejections under 35 USC 102(e)

Claims 1 and 2 stand rejected under 35 USC 102(e) as anticipated by Rudell et al '983. While the structural elements of the Rudell patent resemble the claimed device, there is no disclosure in Rudell that the emitted sounds change in pitch, volume or tone, in relationship with the changing physical characteristics of the foodstuff. Rudell's invention is merely an off-on switch activated by closing a circuit.

In the current rejection, the Examiner refers to Rudell, col. 5, lines 52-55, as teaching, "\*\*\* changes in said physical characteristics of said foodstuff produce corresponding changes in sound, \*\*\*." However, this portion of the patent is directed to the structure of the plug-in connector of the replaceable circuit board carrying an integrated circuit, shown in Fig. 13 b. The only disclosed functions of the integrated circuits are emission of different sounds in sequence when the contacts are closed by the user. There is no interrelationship between the manipulation of the foodstuff and the type of sound or other effect that is

produced, as claimed in claim 1 of this application. Therefore, Rudell does not include all the elements recited by claim 1 and does not anticipate claim 1.

In order to better define the invention, claim 1 has been amended to combine the functional, "whereby," clause with the recitation of the, "output means." This amendment is a positive recitation of structure having a particular function. That structure is not found in the prior art.

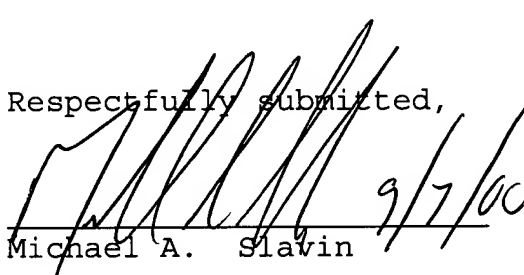
Claim 1 has been further amended to include a Markush group of equivalent emissions in order to clearly define the claim as generic to the invention. The basis for the Markush group is found at page 27, lines 16-17.

It is requested that if generic claim 1 is deemed allowable, the requirement for election of species be withdrawn and all the dependent claims be allowed.

SUMMARY

In light of the foregoing remarks and amendment to the claims, it is respectfully submitted that the Examiner will now find the claims of the application allowable. Favorable reconsideration of the application is courteously requested.

Respectfully submitted,

  
Michael A. Slavin

McHale & Slavin, P.A.  
4440 PGA Blvd., Suite 402  
Palm Beach Gardens, FL 33402  
(561) 625-6575 (Voice)  
(561) 625-6572 (Fax)

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